

Remarks

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Applicants would like to thank Examiner Forman for the courtesy extended to applicants' undersigned representative during the telephone conference held on March 2, 2004. The substance of that interview is summarized below.

Applicants have canceled non-elected claims 22-33, amended claim 39 to make it dependent on claim 1, and added new claims 46 and 47 (which also depend from claim 1). Claims 1-21 and 34-47 are pending.

Because claims 1-21 and 34 are allowable for the reasons noted below, applicants respectfully request the withdrawal of the restriction of claims 35-45, which now depend from independent claim 1.

The rejection of claims 1, 6-8, 10-15, 18, 20, 21, and 34 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,248,539 to Ghadiri et al. ("Ghadiri") is respectfully traversed. Ghadiri teaches an interferometric sensor that includes a porous semiconductor cavity that is specific for a desired analyte. The porous semiconductor cavity includes a porous semiconductor layer that is characterized by, *inter alia*, a relatively consistent porosity (column 3, lines 6-11). As shown in Figure 1 of Ghadiri, the relatively consistent porosity refers to the porous silicon layer formed at one surface of bulk silicon. Hence, the porous semiconductor structure of Ghadiri contains two regions—the bulk silicon and the porous silicon.

In sharp contrast, the porous semiconductor structure of claim 1 includes three layers—a central layer interposed between upper and lower layers. The upper and lower layers of the claimed structure, unlike the porous layer of the Ghadiri structure, each contain strata of alternating porosity. Ghadiri actually teaches away from this arrangement, where the porosity is *not* relatively consistent. Thus, the porous semiconductor structure of the presently claimed invention is distinctly different from the porous silicon structure described by Ghadiri.


Because Ghadiri fails to teach or suggest each and every limitation of the presently claimed invention, and in fact teaches away from the present invention, applicants

respectfully submit that the rejection of claims 1, 6-8, 10-15, 18, 20, 21, and 34 under 35 U.S.C. § 102(e) is improper and should be withdrawn.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Date: March 12, 2004



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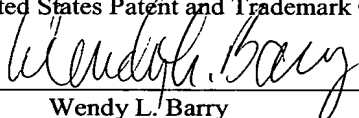
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Wendy L. Barry